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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,384	01/27/2004	Vineet Kumar Sarin	KIN017	2530

7590 09/24/2007  
William L. Johnson  
P.O. Box 1240  
Somis, CA 93066-1240

EXAMINER
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GEORGE, TARA R

ART UNIT	PAPER NUMBER
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3733

MAIL DATE	DELIVERY MODE
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09/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,384	<b>Applicant(s)</b> SARIN ET AL.	
	<b>Examiner</b> Tara R. George	<b>Art Unit</b> 3733	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/23/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kienzle, III (US 2002/0077540A1).

With respect to claim 8, Kienzle discloses a system for measuring and assessing the skeletal geometry of a hip joint during surgery, suitable for surgical navigation of a hip arthroplasty operation, comprising: a locating system which determines positions and orientations of trackable markers (see para. 12); a computer, interfaced to said locating system to receive tracking data, and calculating from said tracking data the positions of tracked objects in relation to a generic computer model of a patient's hip geometry (see para. 12 and para. 15 lines 14-20); a software module, executable on said computer, which defines the patient's pelvic plane without reference to previously obtained radiological data, by locating at least three pelvic landmarks (see para. 16); and a pelvic tracking marker, fixable to the pelvic bone and tracked by said locating system, to track in real time the orientation of said pelvic plane (see para. 45-46).

As for claim 9, Kienzle discloses the system of claim 8, further comprising: a femoral tracking marker, securely attachable to a femur of the patient by a non-penetrating ligature and trackable by said locating system to detect changes in leg length and femoral offset (see para. 52).

As for claim 10, Kienzle discloses the system of claim 9, further comprising a trackable acetabular navigation tool, capable of fixation to an acetabular shell implant; and wherein said software module calculates the relationship between said navigation tool and a real time orientation of said pelvic plane, and displays said relationship, to facilitate establishing proper geometry of said shell implant during surgery (see para. 47).

As for claim 11, Kienzle discloses the system of claim 9, further comprising an trackable, manual probe for acquiring the positions of said pelvic landmarks, and wherein said software module defines said pelvic plane from at least three and not more than four pelvic landmarks (see para. 45-46).

With respect to claims 1,2 and 4-7, it is noted that the method is disclosed above.

As for claim 3, Kienzle discloses the method of claim 2 wherein said anatomical pelvic features comprise at least three of an ipsilateral anterior superior iliac spine, a contralateral anterior superior iliac spine, an ipsilateral pubic tubercle, and a contralateral pubic tubercle (see para. 45).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara R. George whose telephone number is (571) 272-3402. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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EDUARDO ROBERT  
SUPERVISORY PATENT EXAMINER